

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Billie Smith,)	
)	C/A No. 2:18-0824-MBS
Plaintiff,)	
)	
vs.)	OPINION AND ORDER
)	
Prentiss Parks, Dean Harrigal, Jean)	
Harrigal, and Andrea N. Pietras,)	
)	
Defendants.)	
_____)	

Plaintiff Billie Smith filed the within action on March 26, 2018, against Defendants Prentiss Parks, Dean Harrigal, and Jean Harrigal. An amended complaint was filed on June 6, 2018, which added Andrea N. Pietras as a Defendant. Plaintiff contends Defendants violated her constitutional rights in various respects. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling.

The Magistrate Judge issued an order on August 29, 2018, in which he directed the Clerk of Court to issue summonses and forward the summonses to Plaintiff for service of process. Plaintiff was cautioned that she is responsible for timely service of process under Fed. R. Civ. P. 4. Plaintiff's attention was directed to Rule 4(m), which provides that "[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time."

On January 23, 2019, the Magistrate Judge issued a Report and Recommendation and Order in which he noted that Plaintiff had received extensions of time to serve Defendants on November 28, 2018 and January 7, 2019. The Magistrate Judge noted that no proof of service has been

submitted by Plaintiff. Therefore, the Magistrate Judge recommended that, unless Plaintiff provided the court with proof of service within ten days, the within action be dismissed, without prejudice, pursuant to Rule 4(m). Plaintiff has not responded to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. The action is dismissed pursuant to Rule 4(m) for lack of service.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Charleston, South Carolina

February 13, 2019